

**KING COUNTY TRANSFER OF DEVELOPMENT RIGHTS  
AGRICULTURAL CONSERVATION EASEMENT:**

**DEED AND AGREEMENT RELATING TO  
DEVELOPMENT RIGHTS**

**THIS DEED AND AGREEMENT RELATING TO DEVELOPMENT RIGHTS** entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, **BY AND BETWEEN (Enter name(s) of Grantor(s))** **XXXXXXXXXXXXXXXXXXXX**, hereinafter referred to as “Grantor(s),” **AND KING COUNTY, a political subdivision of the State of Washington** hereinafter referred to as “Grantee”.

WHEREAS, Grantor and Grantee make the following recitals:

A. The Grantors are the present owners of the lands legally described in Exhibit A (the “Protected Property”) and graphically depicted in the Site Plan (Exhibit B-1); said Protected Property includes all existing and/or claimed water rights (“Water Rights”) as described in Exhibit C; all of which exhibits are attached hereto and incorporated herein by reference.

B. King County and the Grantors have mutual interests in preventing the conversion of agricultural lands to non-agricultural uses and it is the purpose of this Deed and Agreement Relating to Development Rights (“Deed and Agreement” also sometimes referred to herein as “Conservation Easement”) to protect the prime farmland soils and to retain the agricultural viability of the Protected Property.

C. The Protected Property has the capacity to be Farm and Agricultural Land as defined in RCW 84.34.020(2) or Farm and Agricultural Conservation Land as defined in RCW 84.34.020(8) and it possesses agricultural soils as well as having other characteristics, referred to herein as “Conservation Values”, that make it very suitable for the commercial production of agricultural products.

D. The Protected Property also possesses open space, ecological and natural values (e.g., undeveloped rural views, undeveloped wetland and riparian areas which enhance habitat for salmon and provide wildlife habitat and resting areas for migratory waterfowl), natural flood storage and conveyance functions and ground water recharge values (e.g. lack of impervious surface and existing wetlands), all of which are of great importance to Grantor, Grantee, and the people of King County, and the people of the State of Washington. Collectively these values are referred to herein as the “Open Space Values” of the Protected Property.

E. The Grantors desire to cooperate with the Grantee in preserving the Protected Property devoted to agricultural and open space uses. The specific Conservation Values and Open Space Values on the Protected Property are further documented in the Present Conditions Report signed

and dated \_\_\_\_\_, 20\_\_ and on file at the offices of Grantee, which describes the relevant features, current use and state of improvement of the Protected Property. The Grantor and Grantee acknowledge and agree that to the best of their knowledge the Present Conditions Report incorporated herein by reference (“the Report”) includes a complete and accurate description of the Protected Property, and is intended to serve as an objective, though nonexclusive, information baseline for reference purposes to determine future compliance with the terms of this Conservation Easement. Because the Report, and standards described therein may be amended from time to time, ongoing use and management of the Protected Property shall be governed by this Conservation Easement, rather than the Report.

F. Grantee has determined that the Protected Property qualifies as a sending site under the provisions of K.C.C. 21A.37 for the Transfer of Development Rights (“TDR”) Program, and after consideration of existing improvements and retained development rights, the Protected Party has a total of (XXX) development rights available for sale and transfer from the Protected Property (hereafter “Transferable Development Rights”) to qualified receiving sites.

G. The Grantors are willing to grant and convey to the Grantee the Development Rights in the Protected Property (said rights being the interest in and the right to use and subdivide land for any and all residential, commercial, and industrial purposes and activities which are not incident to agricultural and open space uses), and the associated Transferable Development Rights, on the terms and conditions and for the purposes hereinafter set forth. The Grantee is willing to purchase the Development Rights and the associated Transferable Development Rights from the Protected Property and accept this instrument of conveyance.

H. The Grantor and Grantee understand that development rights removed from the Protected Property by this Conservation Easement may not be used on or transferred to any other portion of the Protected Property as it now or hereafter may be bounded or described. The Transferable Development Rights, however, may be transferred to other property pursuant to the Transfer of Development Rights program as authorized by King County Code 21A.37 or a successor program authorized by the King County Code.

I. The Grantee has determined that the acquisition by the Grantee of Development Rights in Farmland and Open Space Land will benefit the public through the preservation of property devoted to agricultural and open space uses.

J. The grant and conveyance of Development Rights by the Grantors to the Grantee will preserve the Protected Property for activities consistent with agricultural and open space uses in perpetuity in accordance with the specific terms and conditions hereinafter set forth. The Conservation and Open Space Values of the Protected Property will be conserved and maintained in perpetuity, and uses of the Protected Property that are inconsistent with these conservation purposes will be prevented or corrected by the Grantor in consultation with Grantee. The parties agree that the current use of, and improvements to, the Protected Property are consistent with the conservation purposes of this Deed.

K. The Grantee is a “qualified conservation organization,” as defined by the Internal Revenue Code, and accepts the responsibility of enforcing the terms of this Deed and upholding its

93 conservation purposes forever.

94  
95 L. Grantor and Grantee have agreed that, in order to maintain the opportunity for the commercial  
96 production of agricultural products upon the Protected Property and to protect the Open Space  
97 Values of the Protected Property, the Development Rights that are granted and conveyed in this  
98 Deed and Agreement include the right to enforce the use of any and all Water Rights appurtenant to  
99 the Protected Property. This term, Water Rights, includes any and all of the rights associated with  
100 the historical and beneficial use of any of the embankments, flumes, head gates, measuring devices  
101 or any other structures that are appurtenant to those Water Rights, together with all easements and  
102 rights of way therefore. The Water Rights are bound by and permanently subject to the covenants,  
103 terms and conditions contained in this Deed and Agreement.

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105 M. The conveyance and preservation of the Development Rights by the Grantors to the Grantee  
106 furthers the objectives of the King County Comprehensive Plan to ensure the conservation and  
107 productive use of the County's natural resource lands and is responsive to the Washington State  
108 Growth Management Act as it serves to retain open space, encourages the conservation of  
109 productive agricultural lands, discourages incompatible uses of these lands and maintains and  
110 enhances natural resource-based industries occurring thereon.

111  
112 N. The Conservation and Open Space Values protected by this Conservation Easement are  
113 recognized by, and the grant of this Conservation Easement will serve, the following clearly  
114 delineated governmental conservation policies:

115  
116 1. The King County Comprehensive Plan Policy R-313 which states "The priority of  
117 the Transfer of Development Rights Program is to reduce development potential in the Rural  
118 Area and Resource Lands by encouraging the transfer of development rights from private rural  
119 lands into the Urban Growth Area."

120  
121 2. R.C.W. 84.34.010, in which the Washington State Legislature has declared "that it  
122 is in the best interests of the state to maintain, preserve, conserve and otherwise continue in  
123 existence adequate open space lands for the production of food, fiber and forest crops, and to  
124 assure the use and enjoyment of natural resources and scenic beauty for the economic and social  
125 well-being of the state and its citizens."

126  
127 3. RCW 64.04.130 AND RCW 84.34.210 grant counties the authority to acquire  
128 Easements to preserve, conserve and maintain open space, agricultural and timber lands; RCW  
129 36.70A.090 provides that counties should provide for innovative land use management  
130 techniques such as transfer of development credit programs.

131  
132 4. The property possesses the capacity to produce agricultural products pursuant to RCW  
133 84.34.020, the Countywide Planning Policies, and the King County Comprehensive Plan.

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135 5. Conservation Futures Tax Ordinance No. 10150, in which the King County Council  
136 finds there is an "increasing need to provide a system of public open spaces necessary for the  
137 health, welfare, benefit and safety of the residents of King County and to maintain King County  
138 as a desirable place to live, visit and locate businesses."

139  
140           6.     King County Code Chapter 21A.37, under which King County adopted standards  
141 for qualification of “Rural” and “Agricultural” Sending Sites under the Transfer of Development  
142 Rights Program and the Protected Property meets the qualifications for participation in the  
143 program with its current Rural zoning, and as qualified Open Space land in accordance with  
144 RCW 84.34.020.

145  
146           7.     King County’s Transfer of Development Rights program enables the owners of  
147 property with “Rural” zoning to transfer development rights from such property to certain  
148 receiving sites within unincorporated and incorporated King County, in exchange for the  
149 permanent preservation and protection of the land and its Conservation and Open Space Values.

150  
151           8.     Waterways Motion No. 9175, in which King County commits to “preserving critical  
152 waterways in order to preserve these systems for habitat and recreational purposes.”

153  
154           9.     King County Comprehensive Plan Policy E-499(c) which states: “The existing flood  
155 storage and conveyance functions and ecological values of floodplains, wetlands, and riparian  
156 corridors shall be protected, and should, where possible, be enhanced or restored.”

**NOW THEREFORE WITNESSETH**, that the Grantors, for and in consideration of **XXXX**  
**DOLLARS (US\$XXX)** lawful money of the United States of America, paid to the Grantors by the  
Grantee, the receipt whereof is hereby acknowledged, and upon issuance of TDR Certificate  
Number **X for YYYY (Y)** Rural Transferable Development Rights to the King County Transfer  
of Development Rights Bank pursuant to King County Code Section 21A.37, and the Grantors  
being therewith fully satisfied, do by these presents grant, bargain, sell, transfer and convey unto  
the Grantee forever all but **XXX** Development Rights in respect to the Protected Property in order  
to carry-out the aforementioned purposes, subject only to those defects and/or encumbrances (if  
any) identified on Exhibit D (collectively, "Permitted Exceptions"), hereby perpetually binding the  
Protected Property to the restrictions limiting permitted activities to agricultural and open space  
uses as specifically delineated in the covenants, terms, and conditions contained herein, and do also  
grant such interests, rights and easements, make such covenants, and subject the Protected Property  
to such servitudes as are necessary to bind the Protected Property in perpetuity to such restrictions.  
This conveyance is a conveyance of an interest in real property under the provisions of RCW  
64.04.130.

The Grantors and Grantee hereby agree that the Protected Property shall be bound by and  
permanently subject to the following restrictive covenants, terms, and conditions. None of these  
covenants, terms, and conditions shall be construed as allowing a use that is not otherwise  
permitted by applicable state and local laws, codes, standards, and ordinances. Grantor shall  
conduct all reserved and permitted uses and activities under this Deed and Agreement so as to meet  
all requirements of federal, state and local statutes, rules, and regulations as they may be amended  
from time to time.

## **RESTRICTIONS ON USE OF THE PROTECTED PROPERTY**

### **I. Uses Restricted to Agricultural and Open Space Uses; Agricultural and Open Space Uses Defined.**

Use of the Protected Property is permanently restricted to solely agricultural and open space  
uses. The Grantee strongly encourages the Grantor to farm the Protected Property or to  
lease the Protected Property for farming. Such uses shall be carried out in accordance with  
applicable law and in compliance with the purpose and terms of this Deed and Agreement.

The Protected Property must be managed or farmed under a Farm Management Plan, also  
sometimes referred to herein as a "Conservation Plan", as it exists as of the date of this  
agricultural conservation easement and as may be amended or revised in the future. Said  
Farm Management Plan is as defined in King County Administrative Rule PUT 8-21 (PR),  
or its successor, and approved by an agency or agencies designated by Grantee, by which  
the Protected Property is maintained in a condition capable of supporting current and/or  
future commercially viable agriculture. A copy of the Farm Management Plan shall be kept  
on file at the offices of the Grantee, specifically the office that houses the King County  
Farmland Preservation Program.

A. "Agricultural uses," as used herein, means:

- (1) The growing, raising, and production of horticultural and agricultural crops, including, but not limited to, vegetables, berries, other fruits, cereal grains, herbs, hay and the processing and marketing, for consumption off-premises, of such crops and products. Although intended to support agricultural activity on the Protected Property, such processing and marketing may include agricultural crops from other properties provided such activity serves to maintain the economic viability of agricultural operations on other farmlands in King County and provided that the amount of such activity is approved in writing by the Grantee. On-premises tasting and sampling of horticultural and agricultural crops is permitted if necessary for the performance of processing and marketing activities that are otherwise allowed herein.
- (2) All forms of animal husbandry, including the processing and marketing for off-premises consumption, of the animals or their products. Although intended to support agricultural activity on the Protected Property, such processing and marketing may include animal products from other properties provided such activity serves to maintain the economic viability of agricultural operations on other farmlands in King County and provided that the amount of such activity is approved in writing by the Grantee. On-premises tasting and sampling of animals or their products is permitted if necessary for the performance of processing and marketing activities that are otherwise allowed herein.
- (3) Uses that are consistent with the classification as “Farm and Agricultural Land” as defined in RCW 84.34.020(2).
- (4) Agricultural uses do not include the primary use of the Protected Property as a site for processing and/or marketing agricultural crops and animal products as these activities must be secondary to the use of the Protected Property for the growing, raising, and production of horticultural and agricultural crops and/or all forms of animal husbandry.
- (5) Infrastructure and facilities, such as manure digesters or wind turbines, that support and/or enhance the agricultural use of the Protected Property, are permitted, provided that the predominate use of the property and the majority of its area that is suitable for agricultural production is used for the growing or raising of agricultural crops and/or animal products. Infrastructure and facilities, such as manure digesters, that utilize agricultural products, must use products that are produced on-site, but may combine those products with products or materials produced off-site, provided that such activity is approved in writing by the Grantee. It is the intent of this provision to promote the economic viability of agricultural operations on the Protected Property and on other farmlands in King County.

B. “Open space uses,” as used herein, means:

- (1) Agricultural uses as defined above;
- (2) Non-agricultural uses which include: (i) the Grantor’s right, but not obligation, to voluntarily conduct habitat restoration or allow mitigation activities within Potential Restoration Areas on the Protected Property to meet on or offsite compensatory mitigation needs consistent with King County policies and regulations; (ii) the Grantee’s right to conduct, with the consent

of the Grantor, habitat restoration or mitigation activities within Potential Restoration Areas, defined below and depicted in Exhibit B-2 and in the Present Conditions Report dated XXX 2014, on the Protected Property to meet on or offsite compensatory mitigation needs consistent with current King County policies and regulations.

All restoration and mitigation activities shall: (1) ensure that agriculture remains the predominant use on the Protected Property, (2) avoid impacts to and prevent loss of land suitable for direct agricultural production, (3) not substantially reduce the Protected Property's overall capacity for future agricultural production, (4) be planned and designed to benefit current and future agricultural production on the Protected Property, (5) be conducted such that the natural, ecological, scenic, or designated historic resources are conserved or enhanced, and (6) not permanently compact, remove, sterilize, or pollute the soil outside the Potential Restoration Areas.

Nothing herein shall be deemed to imply any obligation by the Grantee to perform such restoration activities.

Neither open space nor agricultural uses include the following: commercial and industrial activities that are unassociated with agriculture; the construction, habitation, or other use of a dwelling unit and/or farm worker housing, except to the extent such use is specifically reserved in this Deed and Agreement; placement, construction or expansion of buildings, structures or roads for non-agricultural uses; restaurants or other establishments primarily intended for the consumption of food or beverages; the construction or use of golf courses, parking lots unassociated with agricultural uses, zoos, kennels, catteries, athletic fields, campgrounds, or vehicle raceways or animal raceways other than those principally used for the exercise of animals grown, raised, or produced on the Protected Property. Open space uses may include trails for non-motorized use by the public.

## **II. Dwelling Units**

"Dwelling Unit," as used herein, means: A permanent or mobile structure designed and used for single-family residential occupancy.

- A. **Reservation of Dwelling Unit(s).** The Grantors reserve the right to the use of TWO (2) single-family dwelling units, which are composed of one existing single-family dwelling unit located on the Protected Property and reserved rights to construct ONE single-family dwelling unit at some time in the future on the Protected Property. The locations of all reserved dwelling units, both those existing on the Protected Property at the date of this Deed and Agreement and those which are reserved but which do not exist on the Protected Property at the date of this Deed and Agreement, are shown on Exhibit B-1 as the building envelopes within which the aforementioned reserved dwelling units must be located. Grantor may not change the location of any building envelopes, as shown on Exhibit B-1, without the express written permission of the

Grantee and of the Beneficiaries, if any.

No more than the number of reserved dwelling units stated above and depicted on Exhibit B-1 as of the date of this Deed and Agreement will be permitted, regardless of whether the Protected Property is divided or its boundaries are altered by the Grantor or by any successor in interest of the Grantor. If the Protected Property is divided, or its boundaries altered, reference to this Deed and Agreement must be shown on the map of the divided, or altered property and Exhibit B-1 must be recorded as part of the division or alteration so that any future transfer or change in ownership of the Protected Property shall be explicitly subject to and governed by Exhibit B-1.

If a portion of the Protected Property is transferred separate from the whole, the conveyance instrument shall state the number of reserved dwelling units that are allocated to that portion, and Exhibit B-1, showing the building envelope(s) within which the reserved dwelling units are or will be located, shall be attached to the conveyance instrument and recorded with it.

Failure to record Exhibit B-1 upon division, boundary alteration, or upon the transfer of a portion of the Protected Property, shall not invalidate or otherwise affect the restriction of the total number of reserved dwelling units and their location(s) on the Protected Property.

Except for the TWO (2) reserved single-family dwellings described in paragraph II A above, and in paragraphs II B and II C below, the use of development rights for any residential, commercial, or industrial development on the Protected Property, that are now or hereafter allocated to, implied, reserved or inherent in the Protected Property, is prohibited, and the parties agree that such rights are removed from the Protected Property and may not be used on or transferred to any other portion of the Protected Property as it now or hereafter may be bounded or described. The development rights, however, may be transferred to other property pursuant to the Transfer of Development Rights program as authorized by King County Code 21A.37 or a successor program authorized by the King County Code.

**[If Grantor chooses to limit the size of the reserved dwelling units, insert the following wording: The total living space square footage of any new or remodeled reserved dwelling unit shall not exceed 2,995 square feet which is 150% of the median size of dwelling unit living space in King County's Agricultural Production Districts, as determined by King County Assessor's records, upon the date of this Deed and Agreement.]**

Reserved dwelling units must be used for the sole purpose of accommodating the Grantors and their successors in interest to the Protected Property, the farm operator, or the families of such persons, or for accommodating on-farm agricultural employees of the owner or operator and their families. Reserved dwelling units cannot be leased to the public-at-large.

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345 B. **“Accessory Dwelling Unit,”** as used herein means: a separate, complete dwelling unit  
346 that is attached to or contained within the structure of a reserved dwelling unit or  
347 is contained within a separate structure that is accessory to and on the same legal lot as  
348 a reserved dwelling unit. The total living space square footage of an accessory  
349 dwelling unit shall not exceed 1,000 square feet unless the accessory dwelling unit is  
350 wholly contained within a basement or attic of a reserved dwelling unit. Only one  
351 accessory dwelling unit is permitted for each reserved dwelling unit. Property  
352 containing an accessory dwelling unit cannot be divided or transferred separately  
353 from the property on which the reserved dwelling unit is located unless the accessory  
354 dwelling unit is removed prior to such action.  
355

356 The use of accessory dwelling units shall be limited to the Grantors and their  
357 successors in interest to the Protected Property, the farm operator, or the families of  
358 such persons, or for accommodating on-farm agricultural employees of the owner or  
359 operator and their families. Accessory dwelling units cannot be leased to the public-at-  
360 large.  
361

362 C. **“Agricultural Employee Dwelling Unit,”** as used herein means: a dwelling unit in  
363 which the total living space square footage does not exceed 1,000 square feet and  
364 which is used to house agricultural employees who are employed to work on the  
365 Protected Property. Such agricultural employee dwelling units are not included in the  
366 number of dwelling units reserved nor are they considered to be accessory dwelling  
367 units. If the primary use of the Protected Property changes to a non-agricultural use, all  
368 agricultural employee dwelling units shall be removed. Property containing  
369 agricultural employee dwelling units cannot be divided or transferred separately from  
370 the rest of the Protected Property unless said structures are permanently removed prior  
371 to such action. Agricultural employee dwelling units may only be occupied by  
372 agricultural employees who are employed to work on the Protected Property.  
373

374 The location(s) of accessory dwelling units and of agricultural employee dwelling units  
375 that exist on the Protected Property upon the date of this Deed and Agreement, are  
376 included within a building envelope as shown on Exhibit B.  
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378 The Grantor must obtain written permission from the Grantee prior to the  
379 construction or installation of any accessory dwelling units or agricultural employee  
380 dwelling units not existing on the Protected Property upon the date of this Deed and  
381 Agreement. Nothing herein shall be deemed to waive the requirement to obtain any  
382 required permits from the agency of the appropriate government responsible for issuing  
383 development permits. New accessory dwelling units and/or agricultural employee  
384 dwelling units must be located within an existing building envelope. Any addition of  
385 accessory dwelling units and/or agricultural employee dwelling units shall be shown on  
386 an updated Site Plan which has been approved in writing by the Grantee and which  
387 shall be added to the Baseline Documentation on file at the offices of the Grantee.  
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389 **III. Emergencies.** Grantor may undertake any activities that are necessary to protect health or

safety or prevent significant property damage on the Protected Property or are required by and subject to compulsion of any governmental agency; provided, however, that Grantor shall first reasonably attempt to notify Grantee prior to taking such action. If Grantee cannot provide consent, with or without conditions, within such time as is reasonable under the circumstances, Grantor may proceed with such action without consent.

**IV. Further Restriction on Use of the Protected Property.** Potential uses of the Protected Property are limited in that the Grantors, their heirs, successors, and assigns shall only be entitled to use, lease, maintain, or improve the Protected Property for agricultural and open space uses, and they shall comply with the following terms, conditions, restrictions, and covenants, which are permanently binding on the Protected Property:

- A. No division of the Protected Property or transfer of a portion of the Protected Property that results in any parcel or portion of the Protected Property being less than 35 acres shall be permitted. The Grantor must obtain written permission from the Grantee and all Beneficiaries, if any, prior to initiating any division, boundary line adjustment or transfer of a portion of the Protected Property. All restrictions imposed by this Deed and Agreement shall survive any division, boundary line adjustment or transfer of a portion of the Protected Property. A boundary line adjustment that combines the Protected Property, or any portion thereof, that is subject to this Deed and Agreement, with property on which the development rights have not been conveyed to King County, is prohibited. Any divisions, boundary line adjustments or transfers of a portion of the Protected Property which would result in any parcel exceeding the limit on non-tillable surface as specified in Section IV.B. of this Deed and Agreement are prohibited.
- B. No more than a total of 5 percent of the Protected Property or of any parcel thereof resulting from any future division of the Protected Property, boundary line adjustment, or transfer of a portion of the Protected Property, shall be covered by structures and/or non-tillable surfaces. "Structures" shall include but are not limited to residences, barns, machine sheds, permanent greenhouses, associated structures, retail and processing facilities, surfaced parking areas, surfaced driveways, surfaced roadways, and surfaced pads. Temporary shelter for soil-dependent cultivation of horticultural or viticultural crops is not considered a structure. "Non-tillable surfaces" shall include but are not limited to asphalt, concrete, gravel, and any other cover material not normally associated with cultivation of the soil. Naturally-occurring non-tillable surfaces, such as rock outcrops or bodies of water, shall not be counted against the 5 % non-tillable surface limitation. Non-tillable surfaces within public right-of-way or utility easements, that exist upon the date of this conveyance or which are approved in writing by the Grantee and the Third Party Beneficiaries, if any, subsequent to this Deed and Agreement, shall not be counted against the 5 % non-tillable surface limitation. Prior to the creation of any non-tillable surface, the topsoil on the area so affected shall be removed and used elsewhere on the Protected Property; said requirement is subject to permitting restrictions. Should the amount of non-tillable surface on any parcel comprising a portion of the Protected Property exceed 5 percent for that parcel, such parcel cannot be transferred separately but must remain under the same ownership as other parcels of which the Protected Property is comprised, said parcels being of sufficient

size so that, collectively, their total non-tillable surface does not exceed 5 percent of their total acreage. No parcel may be transferred separately from the remaining parcel or parcels, if the transfer of that parcel would cause the remaining parcel or parcels to exceed the 5% limitation on non-tillable surfaces for those parcels or parcel.

- C. No mining, drilling, or extracting of oil, gas, gravel, or minerals on or under the Protected Property that breaks the surface of the Protected Property, shall be permitted. Temporary disruption of the Protected Property, not to exceed one acre in total, for the extraction of subsurface materials is permitted only if the extracted materials are used in connection with agricultural activities occurring on the Protected Property. No part of the surface of the Protected Property shall be used for storage or processing of gas, oil, or minerals taken from the Protected Property, other than storage for the private use of the occupants of the Protected Property.
- D. No subsurface activities, including excavation for permitted underground utilities, pipelines, or other underground installations shall be allowed that cause permanent disruption of the surface of the Protected Property. Temporarily disrupted soil surfaces shall be restored in a manner consistent with agricultural uses, including restoration of the original soil horizon sequence, within one year of when the soils were initially disrupted. Notwithstanding anything in this Section to the contrary, Grantor shall comply with all applicable state and federal laws and shall give notice to and receive consent from Grantee, in writing, with respect to any alteration of the Protected Property that would have the effect of physically disturbing a known cultural site, a survey of which is included in the Baseline documentation and incorporated herein by this reference.
- E. No dumping or storage of solid or liquid waste, or of trash, rubbish, hazardous, or noxious materials shall be permitted. Hazardous materials include explosives, veterinary or medical wastes, radioactive wastes, chemical, biological or petroleum products that are not being used for agricultural purposes and which may pose a substantial present or potential hazard to humans, wildlife or the environment and which, either singularly or in combination, have toxic properties that may cause death, injury or illness or have mutagenic, teratogenic, or carcinogenic properties or are corrosive, explosive, flammable, or may generate pressure through decomposition or other means. However, the temporary storage of waste generated on the Protected Property is permitted so long as such storage is in compliance with all applicable laws. Temporary storage means storage for the duration of not more than one year. Composting of biodegradable materials for on-site application at agronomic rates is permitted, so long as the composting is done in accordance with all applicable laws. Production of compost for sale and/or off-site application must be predominately of biodegradable materials produced on the Protected Property or of biodegradable materials that have been used for agricultural purposes on the Protected Property, and in accordance with all applicable laws. Hazardous or noxious materials shall not include biosolids, herbicides, pesticides, rodenticides, insecticides, and fertilizers applied and maintained in accordance with federal, state and local law.

- 482 F. No activities that violate sound agricultural soil and water conservation management  
483 practices shall be permitted.  
484
- 485 G. No signs shall be erected on the Protected Property except for the following purposes:  
486 (1) to state the name of the property and the name and address of the occupant;  
487 (2) to advertise any use or activity consistent with the agricultural or open space uses as  
488 herein defined; or  
489 (3) to advertise the property for sale or rent.  
490
- 491 H. Recreational uses of the Protected Property are limited to passive recreational open  
492 space uses such as hiking, fishing, horseback riding, in-season hunting and fishing and  
493 other forms of recreation that do not require site modification to accommodate  
494 motorized, mechanical or electronic accessories. All forms of developed recreation or  
495 recreation that adversely impacts the conservation purposes of this Deed and  
496 Agreement are prohibited.  
497
- 498 I. In order to maintain the ability of the Protected Property to support commercial  
499 agricultural production, the Grantor shall cooperate with the Grantee to help assure the  
500 maintenance of the Water Rights. Grantor shall retain all Water Rights necessary for  
501 present or future agricultural production on the Protected Property and shall not  
502 transfer, encumber, lease, sell, abandon, relinquish or otherwise separate, by action or  
503 inaction, such quantity of Water Rights from title to the Protected Property. Grantor  
504 shall take affirmative actions to avoid such abandonment, relinquishment, loss or  
505 forfeiture, including but not limited to the following:  
506 (1.) Exercising the Water Rights by putting them to any beneficial use that is not  
507 inconsistent with the terms of this Deed and Agreement in accordance with Chapter  
508 90.14 RCW;  
509 (2.) Seeking to place or enroll the Water Rights in the Washington State trust water  
510 rights program on a temporary basis, provided that any acquisition of the Water Rights  
511 by the State shall be expressly conditioned to limit its use to instream purposes and its  
512 duration to a term no longer than 10 years; or  
513 (3.) Seeking to lease the Water Rights for use on land other than the Protected  
514 Property for a term no longer than 10 years, with prior written notice to and consent of  
515 the {Local} Grantee, after obtaining approval in accordance with RCW 90.03.380,  
516 90.03.383, 90.03.390, or 90.44.100 for a temporary transfer or change of the Water  
517 Rights; provided, however, that any such lease shall require the lessee to make  
518 beneficial use of the Water Rights in accordance with Chapter 90.14 RCW and for  
519 agricultural purposes only (collectively, "Water Rights Maintenance Actions.") If  
520 Grantor is unable to take the Water Rights Maintenance Actions and the Water Rights  
521 are under threat of abandonment, relinquishment, loss or forfeiture, Grantor shall convey  
522 ownership of said Water Rights to Grantee for Grantee's use in order to maintain the  
523 opportunity for commercial agricultural production on the Protected Property.  
524 If Protected Property possessing divisible Water Rights is divided, a Water Right of  
525 sufficient quantity to support any present or future economically viable agricultural  
526 practice must be allocated to each portion of the Protected Property that exists after the  
527 division. Any relinquishment, loss or forfeiture of the Water Rights shall not be deemed

or construed to be a waiver of Grantee's rights under this Deed and Agreement or to defeat the purpose of the Deed and Agreement, and shall not otherwise impair the validity of this Deed and Agreement or limit its enforceability in any way.

- J. Unless otherwise prohibited by law, trees may be cut to control insects and disease, prevent personal injury and property damage, obtain wood for personal use, construct fences as permitted herein, and, with advance written permission of Grantee, maintain grasslands. Except for trees produced as agricultural products, any commercial harvesting of trees shall be conducted in accordance with a King County approved forest stewardship plan prepared by a professional forester and in accordance with state and local regulations. This provision shall not be construed to allow uses otherwise inconsistent with agriculture and open space uses as defined herein.
- K. Existing fences may be repaired or replaced and new fences may be constructed for the purposes described in the Farm Management Plan referenced in this instrument.
- L. Ditches, drainage tiles, and other water conveyance and/or impoundment features may be lawfully installed, repaired and maintained to support and further enhance the agricultural purposes cited in this conveyance.
- M. Construction, installation or relocation of roads and of public or private utilities including communication services and alternative energy facilities over or under the Protected Property, that affect the suitability of the Protected Property for agricultural use, are prohibited, except to the extent necessary to serve the Protected Property and uses permitted by this Deed and Agreement or unless, as specified in Ordinance 4341, the King County Council has found it necessary to convey a road or utility easement for such construction, installation or relocation. Grantor may not convey any road or utility easements, including temporary easements, without the express written permission of the Grantee.
- N. Grantor shall not engage in any use or activity that causes or is likely to cause significant soil degradation or erosion or significant contamination or pollution of any soils or surface or substrate waters on the Protected Property.
- O. Home occupations or home industries, as defined in Chapter 21A.06 of the King County Code, or its successor, and which are subordinate to the use of the Protected Property for agricultural purposes, are permitted, provided that:
  - (1.) The home occupation or home industry must be consistent with the size, scale and intensity of the existing agricultural use of the Protected Property at the date of this Deed and Agreement and must maintain the primacy of and be subordinate to the use of the Protected Property for agricultural purposes; and
  - (2.) The home industry or home occupation must adhere to the restrictions contained in this Deed and Agreement and in Chapter 21A.30 of the King County Code, or its successor; and
  - (3.) The home industry or home occupation must be owned and operated by the property owner or the farm operator; and

- 574 (4.) All activities associated with the home occupation or home industry must  
575 remain within the building envelope as depicted on the Site Plan (Exhibit B)  
576 which is attached to this Deed and Agreement; all structures and surfaces  
577 within the building envelope are subject to the limitation on non-tillable  
578 surfaces as is specified in Section IV.B. of this Deed and Agreement; and  
579 (5.) If the home industry is sited in a barn or other agricultural structure, the  
580 property owner must be able to provide verification that the home industry is  
581 subordinate to the use of the Protected Property as a farm; and  
582 (6.) No new structures or surfaces, to be used primarily for the operation of a home  
583 industry or home occupation, shall be constructed or installed on the Protected  
584 Property; and  
585 (7.) Should there be any discrepancy between the covenants and restrictions  
586 contained in this Deed and Agreement and the restrictions on home industries  
587 and occupations contained in the King County Code, the more restrictive of the  
588 two shall prevail.  
589

590 **V. Restriction on Use of the Protected Property to Satisfy Conservation and Open Space**  
591 **Requirements for Development or Use of Other Real Property.** Except as is otherwise  
592 provided below, in the event that an application is made at any time to a federal, state, or  
593 local governmental authority for permission to make use of any other real property including,  
594 but not limited to, real property that is contiguous to any of the Protected Property hereby  
595 restricted, which proposed use is conditioned by such government authority on the existence  
596 of a specified quantity of open space or other restrictions on development, the Protected  
597 Property shall not be used to contribute toward the satisfaction of any such open space  
598 requirement. This restriction shall not apply if the proposed use of the other real property is  
599 an agricultural or open space use, as defined herein.  
600  
601

## 602 **ADDITIONAL COVENANTS AND AGREEMENTS**

603

604 The Grantors and Grantee further agree as follows:  
605

606 **Conservation Plan.** The Grantor, his/her heirs, successors, or assigns, shall maintain the Land and  
607 conduct all agricultural operations on the Land in a manner consistent with a Conservation Plan,  
608 also sometime referred to herein as a "Farm Management Plan", prepared in consultation with the  
609 Natural Resources Conservation Service (NRCS) and which meets the approval standards of any  
610 other agency or agencies as designated by the Grantee. This Conservation Plan shall be developed  
611 using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12  
612 that are in effect on \_\_\_\_\_, 20\_\_\_. However, the Grantor may develop and implement a  
613 management plan that proposes a higher level of conservation and is consistent with the NRCS  
614 Field Office Technical Guide standards and specifications. The Grantee and the Beneficiaries, if  
615 any, shall have the right to enter upon the Protected Property, with advance notice to the Grantor, in  
616 order to monitor compliance with the Conservation Plan.  
617

618 In the event of noncompliance with the Conservation Plan, the Grantee shall work with the  
619 Grantor to explore methods of compliance and give the Grantor a reasonable amount of time, not

to exceed twelve months, to take corrective action. If the Grantor does not comply with the Conservation Plan, the Grantee shall take all reasonable steps (including efforts at securing voluntary compliance and, if necessary, appropriate legal action) to secure compliance with the Conservation Plan.

**Covenant Against Encumbrances.** The Grantors covenant that they have not done or executed, or allowed to be done or executed, any act, deed, or thing whatsoever whereby the Development Rights hereby conveyed, or any part thereof, now or at any time hereafter, will or may be charged or encumbered in any manner or way whatsoever.

**Subsequent Liens.** No provisions of this Deed and Agreement should be construed as impairing the ability of The Grantor to use this Protected Property as collateral for a loan, provided that any mortgage or lien associated with the loan is subject to or subordinated to this Deed and Agreement.

**Responsibilities of Grantor and Grantee Not Affected.** Other than as specified here, this Deed and Agreement is not intended to impose any legal or other responsibility on Grantee or in any way affect any existing obligations of Grantor as the owner of the Protected Property.

**No Public Rights Conveyed by Deed and Agreement.** The parties acknowledge that, except as specifically provided herein, Grantor does not grant, expand or extend any rights to the general public through this Deed and Agreement, including without limitation, any rights of public access to on or across, or public use of, the Protected Property.

**Remedies.** Grantee has the right to enforce the terms of this Deed and Agreement and to prevent and correct or require correction of violations of the terms, conditions, restrictions and covenants of this Deed and Agreement. Grantee shall have the right to prevent, or cause Grantor to prevent, any use of, or activity on, the Protected Property that is inconsistent with the purpose and terms of this Deed and Agreement, including trespasses by members of the public, and shall have the right to undertake or cause to be undertaken the restoration of such areas or features of the Protected Property as may be materially damaged by activities contrary to the provisions hereof. After giving reasonable notice to the possessors of the Protected Property, the Grantee or its authorized representative shall have the right to enter from time to time onto the Protected Property and into structures located thereon for the sole purposes of inspection and enforcement of the terms, conditions, restrictions and covenants hereby imposed. In addition, Grantee shall have the right to enter upon the Protected Property, at a mutually agreeable date and time and upon prior notice to Grantor, to inspect the Protected Property after major natural events occur, such as fires, windstorms, and floods. Grantee shall exercise its access rights in compliance with applicable law and in a manner that will not materially disturb or interfere with Grantor's reserved rights, any other person's lawful use of the Protected Property, or Grantor's quiet enjoyment of the Protected Property.

If Grantee becomes aware of or finds a violation of this Deed and Agreement, Grantee may at its discretion take any and all appropriate legal action in law or equity and/or pursue administrative remedies under the King County Code (KCC) for violations arising under the provisions of the KCC. Upon discovery of a violation, Grantee shall notify Grantor in writing of the violation.

Except when an ongoing or imminent violation could, as determined by Grantee, seriously impair the Conservation Values of the Protected Property, Grantee shall give Grantor written notice of the violation and 30 days to correct it before filing any legal action, including any administrative activity under the KCC.

If Grantor fails to cure the violation within 30 days after receipt of a notice of violation, Grantee may (1) seek enforcement under the provisions of the KCC and/or (2) bring an action in court to enforce the terms of this Deed and Agreement, to enjoin the violation, and to require restoration of the Protected Property to the condition that existed prior to any such injury. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Deed and Agreement are inadequate and that Grantee shall be entitled to the injunctive relief described in this Section both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Deed and Agreement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. All such actions for injunctive relief may be taken without Grantee being required to post bond or provide other security. Where a court finds that a violation has occurred, Grantor shall reimburse Grantee for all its expenses incurred in halting and correcting the violation, including but not limited to actual costs of restoration, court costs, and reasonable attorney's fees. In as much as the actual damages to the Agricultural Conservation Value that could result from a breach of this Deed and Agreement by Grantor would be impractical or extremely difficult to measure, the Parties agree that the money damages Grantee is entitled to recover from Grantor shall be, at Grantee's election, the higher of (i) the amount of economic gain realized by Grantor from violating the terms of the Deed and Agreement or (ii) the cost of restoring any Agricultural Conservation Values and/or open space values that have been damaged by such violation. In the event Grantee chooses the second of these two measures, Grantor agrees to allow Grantee, its agents or contractors, to enter upon the Protected Property and conduct restoration activities.

Enforcement of the terms of this Deed and Agreement shall be at the discretion of the Grantee, and any forbearance by Grantee to exercise its rights under this Deed and Agreement in the event of any breach of any terms of this Deed and Agreement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any of Grantee's rights under this Deed and Agreement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Moreover, any failure by Grantee to discover a violation of this Deed and Agreement or forbearance by Grantee in exercising its rights under this Deed and Agreement in the event of any violation of its terms by Grantor shall not be deemed a waiver by Grantee of such rights with respect to any subsequent violation. No waiver or waivers by the Grantee, or by its successors or assigns, of any breach of a term, condition, restriction, or covenant contained herein shall be deemed a waiver of any subsequent breach of such term, condition, restriction or covenant or of any other term, condition, restriction, or covenant contained herein.

**No Alteration or Amendment.** The terms, conditions, restrictions, and covenants contained herein shall not be altered or amended unless such alteration or amendment shall be made with the written consent of the Grantee and of Beneficiaries, if any, or their successors or assigns, and any such alteration or amendment shall be consistent with the purposes of King County Ordinance No. 4341,

as heretofore or hereafter amended. Any amendment to this Deed and Agreement shall be recorded in the official records of King County, Washington.

**Restrictions Binding on Successors and Third Parties.** The Grantors and Grantee agree that the terms, conditions, restrictions, and covenants contained herein shall be binding upon the Grantors, their agents, personal representatives, heirs, assigns, and all other successors in interest to the Protected Property and possessors of the Protected Property, and shall be permanent terms, conditions, restrictions, covenants, servitudes, and easements running with and perpetually binding the Protected Property. Any interests in the Protected Property held or obtained by third parties shall be subordinate to the terms of this Deed and Agreement.

**Notice.** Certain provisions of this Deed and Agreement require Grantor to give notice to Grantee prior to undertaking certain uses and activities (i.e., those sections listed in Exhibit \_\_, attached hereto and incorporated herein by reference) for the purpose of affording Grantee an opportunity to adequately ensure that the proposed use or activity is designed and implemented in a manner that is consistent with the purpose of this Deed and Agreement. Whenever such notice is required, and no other timeline for notice is set forth elsewhere in this Deed and Agreement, Grantor shall provide such notice in writing not less than ninety (90) days prior to the date Grantor intends to undertake the use or activity in question. The notice shall describe the proposed use or activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the terms of the Deed and Agreement. Grantee shall provide a written response to the notice in a timely manner.

**Consent Not Unreasonably Withheld.** Wherever in this Deed and Agreement a Party's consent is required, such consent may be withheld only upon a reasonable determination by the consenting party that the action as proposed would be inconsistent with the purpose or terms of this Deed and Agreement and cannot be modified to make the proposed action consistent with the purpose and terms of this Deed and Agreement. Any consent may include reasonable conditions consistent with the purpose and terms of this Deed and Agreement that must be satisfied in undertaking the proposed action, use, or activity.

**Addresses for Notices.** Any notice, demand, request, consent, concurrence, approval, or communication that either party desires or is required to give to the other shall be in writing either served personally or sent by registered mail or overnight courier with proof of delivery, addressed as follows:

To Grantor:    name  
                     street address  
                     city, state, zip

To Grantee:    name  
                     street address  
                     city, state, zip

**Transfer of Rights by Grantee.** The Grantee agrees that the Development Rights to the Protected Property shall not be sold, given, divested, transferred, or otherwise reconveyed in whole or in part in any manner except as provided in King County Ordinance No. 4341, as heretofore or hereafter

757 amended. The Grantors, their personal representatives, heirs, successors or assigns, shall be given  
758 the first right of refusal to purchase the Development Rights in the Protected Property provided such  
759 disposition and reconveyance be lawfully approved.  
760

761 **Subsequent Transfers.** For the purposes of this Section and Articles II and IV. above, "Transfer"  
762 includes but is not limited to any sale, grant, lease, hypothecation, encumbrance, assignment, devise,  
763 conveyance, or any transaction the purpose of which is to effect a sale, grant, lease, hypothecation,  
764 encumbrance, assignment, devise, or conveyance. Grantor shall give written notice to the Grantee  
765 of the transfer of any interest in all or a portion of the Protected Property at least thirty (30) days  
766 prior to the date of such transfer. Such notice to Grantee shall include the name, address, and  
767 telephone number of the prospective transferee or such transferee's representative. Grantor agrees  
768 to: (1) incorporate by express reference the terms of this Deed and Agreement in any deed or other  
769 legal instrument by which it divests itself of any interest in all or a portion of the Protected Property;  
770 and (2) describe this Deed and Agreement in and append it to, any executory contract for the  
771 transfer of any interest in the Protected Property. The failure of the Grantor to perform any act  
772 required by this Section shall not impair the validity of the Deed and Agreement or limit its  
773 enforceability in any way. A party's rights and obligations under this Deed and Agreement  
774 terminate upon the transfer of the party's interest in the Protected Property or this Deed and  
775 Agreement, as the case may be, except that liability for acts or omissions occurring prior to transfer  
776 shall survive transfer.  
777

778 **No Merger.** If Grantee or the Beneficiaries, if any, at some future time, acquire the underlying fee  
779 title in the Protected Property, the interest conveyed by this Deed and Agreement will not merge  
780 with fee title but will continue to exist and be managed as a separate estate.  
781

782 **Condemnation.** If all or any of the Protected Property is taken by exercise of the power of eminent  
783 domain or acquired by purchase in lieu of condemnation, so as to remove the previously acquired  
784 Development Rights interest, in whole or in part, Grantor and Grantee shall act jointly to recover the  
785 full value of the interest in the Protected Property subject to that taking or in lieu purchase and all  
786 direct or incidental damages resulting from the taking or in lieu purchase. Grantee shall be entitled  
787 to compensation in accordance with the following Section, "Valuation," for the value of the  
788 Development Rights taken and the Grantor shall be entitled to compensation in accordance with  
789 applicable law for the value of the underlying fee title and improvements taken.  
790

791 **Valuation.** These Development Rights constitute a real property interest immediately vested in the  
792 Grantee. For purposes of this Section, the Parties stipulate that these Development Rights have a  
793 fair market value determined by multiplying (a) the then fair market value of the Protected Property  
794 unencumbered by the Deed and Agreement (minus any increase in value attributable to  
795 improvements on the Protected Property), at the time of termination or extinguishment, as  
796 determined by an appraisal that meets standard real property appraisal methods by (b) the ratio of  
797 the value of the Development Rights at the time of this grant to the value of the Protected Property,  
798 unencumbered by the Deed and Agreement, at the time of this grant. For purposes of this Section,  
799 the Parties agree that the ratio of the value of the Development Rights to the value of the Grantor's  
800 property unencumbered by the Deed and Agreement at the date of this conveyance is evidenced by  
801 that certain real property appraisal prepared by \_\_\_\_\_, dated \_\_\_\_\_, on file with Grantee.  
802 This ratio is \_\_\_\_\_(e.g., 0.375) and shall remain constant.

**No Affirmative Obligations; Indemnification.** Grantee, in purchasing the Development Rights and related interests described herein, assumes no affirmative obligations whatsoever for the management, supervision or control of the Protected Property or of any activities occurring on the Protected Property. Grantors shall indemnify Grantee and hold Grantee harmless from all damages, costs (including, but not limited to, attorneys' fees and other costs of defense incurred by Grantee and other expenses of every kind arising from or incident to any claim or action for damages, injury, or loss suffered or alleged to have been suffered on or with respect to the Protected Property. Nothing in his Deed and Agreement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in Grantee to exercise physical or managerial control over the day-to-day operations of the Protected Property, or any of Grantor's activities on the Protected Property, or otherwise to become an operator with respect to the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"). This provision shall be binding upon the Grantors for so long as they hold fee title to the Protected Property, and shall bind their successors in interest to the fee title to the Protected Property.

**Environmental Warranty.** Grantor warrants that, to the best of Grantor's knowledge, the Protected Property is in compliance with, and shall remain in compliance with, all applicable Environmental Laws. Grantor warrants that there are no notices by any governmental authority of any violation or alleged violation of non-compliance or alleged non-compliance with or any liability under any Environmental Law relating to the operations or conditions of the Protected Property. Grantor further warrants that it has no actual knowledge of a release or threatened release of Hazardous Materials, as such substances and wastes are defined by applicable federal and state law.

Moreover, Grantor hereby promises to hold harmless and indemnify the Grantee against all litigation, claims, demands, penalties and damages, including reasonable attorneys' fees, arising from or connected with the release or threatened release of any Hazardous Materials on, at, beneath or from the Protected Property, or arising from or connected with a violation of any Environmental Laws by Grantor or any other prior owner of the Protected Property. Grantor's indemnification obligation shall not be affected by any authorizations provided by Grantee to Grantor with respect to the Protected Property or any restoration activities carried out by Grantee at the Protected Property; provided, however, that Grantee shall be responsible for any Hazardous Materials contributed after the date of this Deed and Agreement to the Protected Property by Grantee.

"Environmental Law" or "Environmental Laws" means any and all Federal, state, local or municipal laws, rules, orders, regulations, statutes, ordinances, codes, guidelines, policies or requirements of any governmental authority regulating or imposing standards of liability or standards of conduct (including common law) concerning air, water, solid waste, hazardous materials, worker and community right-to-know, hazard communication, noise, radioactive material, resource protection, subdivision, inland wetlands and watercourses, health protection and similar environmental health, safety, building and land use as may now or at any time hereafter be in effect.

"Hazardous Materials" are as defined in Section IV.E. of this Deed and Agreement.

**Remediation.** If, at any time, there occurs, or has occurred, a release in, on, or about the Protected Property of a hazardous substance, Grantor agrees to take or compel responsible third parties to take all steps required under applicable law and necessary to assure its containment and remediation, including any cleanup that may be required (except that the use of institutional controls shall not be allowed without Grantee's consent), unless the release was caused by Grantee, in which case Grantee shall be responsible for such remediation to the extent the release was caused by Grantee. At its discretion, Grantee may assist Grantor in compelling third parties to contain and remediate any such release.

**Warranties.** Grantors warrant that they are the sole owners of and have title to the Protected Property in fee simple and that there is legal access to the Protected Property. The Grantors further warrant, to the best of their knowledge, that Grantors and the Protected Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Protected Property and its use.

**Rules of Construction.** This Deed and Agreement shall be interpreted under the laws of the State of Washington and the United States. Any ambiguities in this Deed and Agreement and questions as to the validity or interpretation of any of its specific provisions shall be resolved in favor of the Grantee so as to preserve the agricultural and open space uses of the Protected Property and to obtain the goals and objectives expressed in King County Ordinance No. 4341.

**Severability.** If any section or provision of this Deed and Agreement shall be held by any court of competent jurisdiction to be unenforceable, this Deed and Agreement shall be construed as though such section or provision had not been included in it, and the remainder of this Deed and Agreement shall be enforced as the expression of the parties' intentions. If any section or provision of this Deed and Agreement is found to be subject to two constructions, one of which would render such section or provision invalid, and one of which would render such section or provision valid, then the latter construction shall prevail. If any section or provision of this Deed and Agreement is determined to be ambiguous or unclear, it shall be interpreted in accordance with the policies and provisions expressed in King County Ordinance No. 4341.

If any material provision of this Deed and Agreement, or the application thereof to any person or circumstance, is found to be invalid or unenforceable by any court of competent jurisdiction or is superseded by state or federal legislation, rules, regulations or decision, so that the intent of these provisions is frustrated, the parties agree to immediately negotiate a replacement provision to fulfill the intent of the superseded provisions consistent with the purpose of this Deed and Agreement and applicable law.

**Entire Agreement.** This Deed and Agreement sets forth the entire agreement of the Parties with respect to the Development Rights and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Development Rights, all of which are merged herein. No alteration or variation of this Deed and Agreement shall be valid or binding unless contained in an amendment that complies with this Deed and Agreement.

**Recitals.** The Parties agree that the terms and recitals set forth in this Deed and Agreement are material to this Deed and Agreement, and that each Party has relied on the material nature of such

terms and recitals in entering into this Deed and Agreement. Each term and recital set forth herein is fully incorporated into this instrument.

**Schedule of Exhibits. (list the exhibits)**

**Exhibit A: Legal Description of the Protected Property**

**Exhibit B-1: Site Plan and Building Envelopes**

**Exhibit B-2: Potential Restoration Areas**

**Exhibit C: Water Rights**

**Exhibit D: Permitted Exceptions**

910 **IN WITNESS WHEREOF, the parties have hereunto set their hand and seals the day and**  
911 **year first above written.**

912

913

914 GRANTEE

915

916 KING COUNTY

917

918

919 BY\_\_\_\_\_

920

921

922

923

924

GRANTORS

\_\_\_\_\_

\_\_\_\_\_

STATE OF WASHINGTON)  
 )SS  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared \_\_\_\_\_, to me known to be the individual described in and who executed the foregoing instrument, and acknowledged to me that \_he signed and sealed the said instrument as his/her free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

Notary Public in and for the State of Washington

Residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

STATE OF WASHINGTON)  
 )SS  
COUNTY OF KING )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2013, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn personally appeared XXXXXXXXXXXXXXXX, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged to me that they signed and sealed the said instrument as their free and voluntary act and deed for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed name

Notary Public in and for the State of Washington

Residing at: \_\_\_\_\_

My appointment expires: \_\_\_\_\_

**EXHIBIT A**  
**Legal Description**

983  
984  
985

**EXHIBIT B-1 and B-2**

**Site Plan / Building Envelopes  
Potential Restoration Areas**

**ATTACHED**

**EXHIBIT C**

**Water Rights**

**Not in Recordable Format**

**On file with King County and documented in the Present Conditions Report**

1000  
1001  
1002  
1003

## **EXHIBIT D**

### **Permitted Exceptions**